



Scott Newcomer

STATE REPRESENTATIVE • 33rd ASSEMBLY DISTRICT

Testimony In Support Of Assembly Bill 760
Representative Scott Newcomer, Author
February 12, 2008

Members of the Assembly Committee on Small Business, thank you for giving me the opportunity to testify in support of Assembly Bill 760. A.B. 760 seeks to help small businesses and their workers by providing sound regulation of a growing new industry – professional employer organizations or PEO's. Many small and medium sized businesses in Wisconsin turn to PEO's to help ease the administrative burden that goes hand in hand with running a business. PEO's provide small employers assistance with managing their human resources, employee benefits and workers compensation programs so they can focus on growing their business.

Additionally, PEO's provide an added benefit in that the many small to medium sized employers who partner with specific professional employer organizations are able to benefit from favorable economies of scale when the cost and risk for employee benefits is shared over a larger group of employees. As a result, many small employers who partner with PEO's are able to offer their employees robust benefits packages (health insurance, 401k plans, etc.) that are more typical in larger companies. This helps small employers to not only contain costs, but also to attract and retain quality employees.

Currently, there are numerous PEO's operating in Wisconsin helping small to medium sized businesses with cost-effective human resources solutions. While PEO's in Wisconsin have a long and successful history as good corporate citizens, there are currently no regulations in place that set minimum financial standards.

Assembly Bill 760 will require PEO's serving business clients in Wisconsin to register each year with the Department of Regulation and Licensing and meet certain requirements to operate in our state. A.B. 760 is revenue neutral; the fees paid by PEO's will offset the administrative costs. The bill is supported by the PEO's already operating in our state and by the National Association of Professional Employer Organizations. Currently, 29 states in the U.S. have PEO regulation laws on the books.

Compliance with the PEO registration bill is simple and straightforward, requiring annual registration, a minimum amount of working capital or security guarantee and annual audited statements. The bill also will give the Department of Regulation & Licensing the ability to effectively and efficiently administer the legislation.

In conclusion, Assembly Bill 760 is a good example of sensible government regulation. This legislation makes sense for all concerned – Wisconsin companies, their workers and their PEO's.

I appreciate the opportunity to appear before the Committee and ask that you look favorably upon Assembly Bill 760.

PEO Registration and Licensing Bill (AB 760)

Committee on Small Business Talking Points for Testimony – 2/12/08

Mister Chair, Committee Members – good morning

My name is Michael Gotzler and I am General Counsel for QTI Human Resources, Inc., a PEO, which as you heard, is based right down the street here in Madison. I want to voice my strong support for this Bill today – particularly in light of the financial standards and requirements set forth by the Bill.

We believe that ALL parties will benefit from strong, specific and clear regulation of the PEO industry.

How other states regulate the PEO industry is instructive. Our PEO does business in other states that have regulation quite similar to the Bill in front of you today – NC are two such examples of other states.

Sensible PEO regulation attracts responsible PEOs and helps keep bad apples out. As a result, we have seen healthy competition in those states with PEO regulation. We have also experienced a much stronger demand for PEO services in those states with PEO regulation. We believe that this increased demand is the result of a more confident set of potential customers. A small business in any of those other states can easily verify that a PEO is properly licensed and registered – allowing the small business to seek and obtain PEO services with confidence and piece of mind.

PEOs amass significant financial liabilities very quickly. Responsible regulation is therefore necessary. PEOs are responsible for wage payments, retirement plan contributions, benefit plan premiums and employment taxes. Even the smallest PEOs have significant dollars pass through their accounts on a daily basis. This money is the money of small businesses and the PEO's co-employees. This Act would do 2 key things to minimize the likelihood of PEO fraud or other financial misconduct:

1. Proof of Financial Net Worth
2. Annual Audited Financial Statements (from an independent CPA)

In light of a PEO's significant fiduciary responsibilities, the financial requirements set forth in the Act are both reasonable and necessary.

I strongly encourage the Committee to follow the majority of other states and adopt this sensible regulation of the PEO industry. Thank you.



National Association
of Professional Employer Organizations

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February 20, 2008

*Electronic Delivery
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Honorable Sean A. Dilweg
Wisconsin Office of the Commissioner of Insurance
125 South Webster Street
Madison, Wisconsin 53702
Sean.Dilweg@wisconsin.gov
Fax 608-266-9935

Dear Commissioner Dilweg,

On behalf of the National Association of Professional Employer Organizations (NAPEO), I wanted to respond to your letter dated February 18, 2008 to the chairman and members of the Senate Committee on Small Business, Emergency Preparedness, Workforce Development, Technical Colleges, and Consumer Protection regarding Senate Bill 440.

Professional Employer Organizations (PEOs) and Self Funding

In the letter, it is asserted that SB 440 would allow professional employer organizations (PEOs) to self fund, which would be a departure from current law. This is simply not the case. For that to be true, PEOs would need to be specifically authorized by SB 440 to maintain self funded plans. SB 440 does not. At the Office of the Commissioner of Insurance's (OCI) specific request, this bill did not address PEO employer status. As a result, it does not change current law.

PEOs and Small Group Reform

The letter sent raised several concerns relating to small group reforms and PEOs. This assertion was especially confusing especially since the industry had engaged in several discussions with OCI on this point starting in March 2007. I cannot emphasize enough that the language relating to small group reform (p 14, 13 to 17) codifies current practice; this language does not create a new exemption. Nothing in this bill changes current industry practice and benefit programs currently permitted for by OCI. The fact that OCI already allows such PEO programs was discussed in your offices by PEO representatives and the enclosed map of the states with PEO statutes was provided at that time. Similar language already exists in many other states including Indiana (s 27-16-8, IN Code), North Dakota (s 43-55-07, ND Century Code), Arkansas (s 23-92-409(f)(3), AR Stats.), New York (NY Ch 31 (Labor Code), Art. 31, s 922.5), and other states.

Healthcare Plans Offered by PEOs

A PEO health plan operates as a large employer health plan. When a PEO contracts with a business to provide its full suite of HR services (not just health benefits), that includes participation in its health plan for all eligible worksite employees. Nothing in this bill would allow PEOs to deny participation in its health plan to any worksite employee based on claims history. Additionally, PEOs sponsor fully insured health plans that are subject to state insurance regulation.

Legal Recognition of the Industry Needed

Statutes should be clear and easy to understand. When the law contains ambiguities, disagreements may arise that ultimately the courts decide. In large part what the bill seeks to do is to codify current practices and understandings of how the law relates to PEOs. This is no different than any other industry. The aspects of this legislation are in keeping with similar statutes enacted by an increasing majority of other states.

Consumer protection is not just important to clients of PEOs. It is important protection for responsible PEOs.

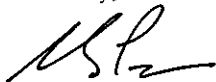
Conclusion

As you know, this legislation represents more than a year of work by legislators, state agencies, including OCI, the PEO industry and interested parties. This legislation represents a positive step forward. In conversations that OCI had with industry representatives, OCI indicated that they were satisfied with our responses to concerns OCI had. This legislation is reflective of those understandings.

NAPEO would be happy to meet during the interim to discuss the specific issues raised by OCI.

If I can be of any assistance, please feel free to contact me directly at 703-739-8179 or apeer@napeo.org or our representative Scott Tyre (608) 227-0138 or styre@capitolnavigators.com

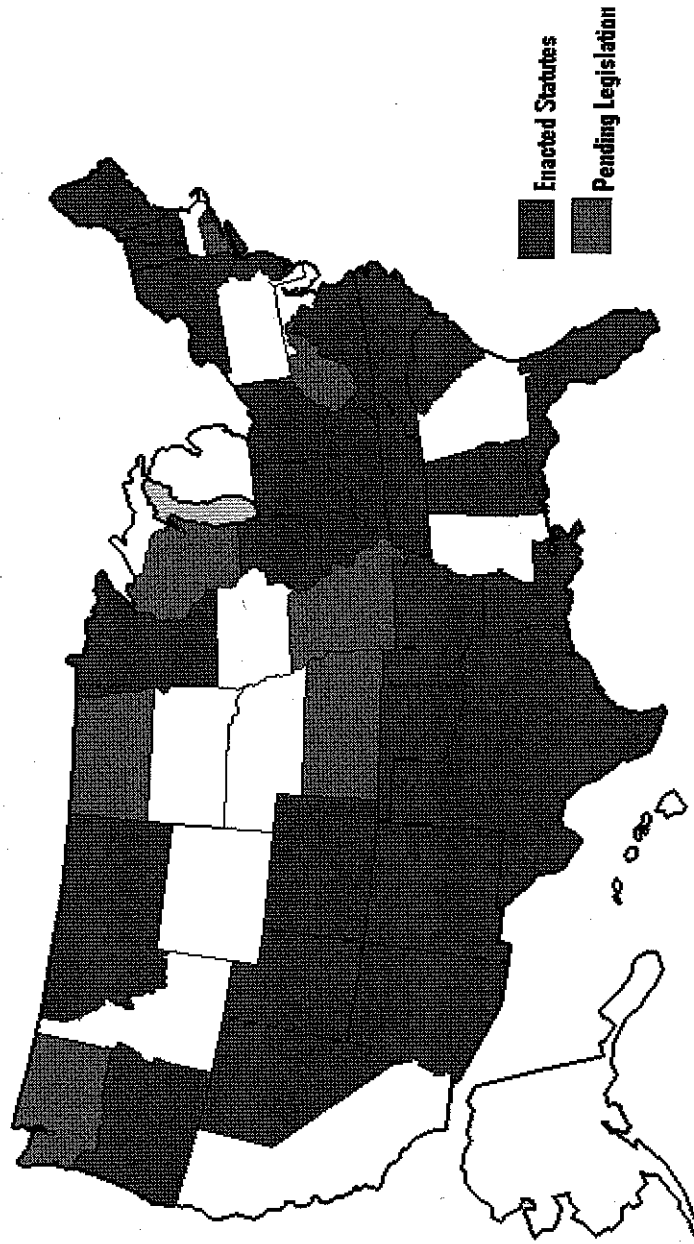
Sincerely,



Adam S. Peer, Assistant Director
State Government Affairs
National Association of Professional Employer Organizations

CC: Members, Senate Committee on Small Business, Emergency Preparedness,
Workforce Development, Technical Colleges, and Consumer Protection

Professional Employer Organization (PEO) Statutes Nationwide





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Memorandum

To: Members, Assembly Committee on Small Business

From: Adam S. Peer, Assistant Director, State Government Affairs

Date: February 20, 2008

**In re: Wisconsin Association of Health Plans (WAHP)
Memo on AB 760, Professional Employer Organizations (PEOs)**

The Wisconsin Association of Health Plans (WAHP) circulated a memorandum requesting that parts of Assembly Bill 760 relating to Professional Employer Organizations (PEO) be deleted. Those passages are critical to a PEO's ability to sponsor a single health plan for its small business clients.

On behalf of the National Association of Professional Employer Organizations (NAPEO), I urge you not to amend AB 760.

- **Fact:** This legislation codifies current practice of both PEOs and insurers in Wisconsin.
- **Fact:** This is not a new exemption. Professional employer organizations are businesses that have long operated in Wisconsin and have many of the significant and real liabilities of traditional employers.
- **Fact:** WAHP has failed to note that its proposed changes could result in Wisconsin workers losing existing health coverage.
- **Fact:** Similar language is already in place in an increasing majority of states (for example: Indiana, North Dakota, Utah, and Arkansas.)

Amending the bill as WAHP suggests potentially could deprive workers in PEO arrangements in Wisconsin of existing health insurance coverage. WAHP has not, and cannot, assure that these workers will receive alternative coverage under small group reform. **This amendment could potentially dramatically increase healthcare costs for existing small business clients or take healthcare away all together.**

Again, on behalf of NAPEO, I urge you not to support any amendments to AB 760.

As always, if I can be of any assistance, please feel free to contact me directly at 703-739-8179 or apeer@napeo.org or our representative Scott Tyre (608) 227-0138 or styre@capitolnavigators.com



WISCONSIN AB 760 and SB 440
Representative Scott Newcomer & Senator Bob Wirth
REGULATION OF PROFESSIONAL EMPLOYER ORGANIZATIONS

Professional Employer Organizations (PEOs) allow even the smallest employer to provide their employees with Fortune 500 class employee benefits and human resource services. PEOs provide employers with integrated services that allow them to provide and manage employee health benefits, retirement benefits, payroll, and compliance with various federal, state, and local employment requirements. These PEO-provided services allow small businesses to concentrate on the operation and job-creating side of their operations.

Workers in Wisconsin benefit because small businesses that employ them can partner with a PEO to provide important benefits, such as health insurance and retirement savings, that they may not be able to provide on their own.

Small business benefits because when they partner with a PEO, the PEO is able to provide small employers with the benefits usually found at large employers. Additionally, because a PEO is a human resources expert, the PEO will help the small business comply with sometimes confusing and burdensome employment-related rules and regulation.

This legislation provides for the basic legal framework for PEO relationships and the basic requirements to operate a PEO in Wisconsin. It also provides for statutory recognition for the important services it provides for Wisconsin employers and workers.

Major PEO requirements include:

- Requires annual registration of PEOs with the Department of Regulation and Licensing (DRL).
- Requires PEOs to maintain a minimum amount of working capital or provide a security or guarantee.
- Requires that PEOs provide DRL with audited financial statements on an annual basis.
- Gives DRL the ability to effectively and efficiently administer the legislation.

If you have any questions or would like any additional information, please feel free to visit NAPEO online at www.napeo.org or contact either:

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**Before the Assembly Committee on Small Business
Testimony of Adam S. Peer, Assistant Director, State Government Affairs
National Association of Professional Employer Organizations
Assembly Bill 760
February 12, 2008**

Chairman Moulton, Committee members: My name is Adam Peer and I am representing the National Association of Professional Employer Organizations. On behalf of our entire membership and specifically our Wisconsin-based members, I am here this today to testify in support of Assembly Bill 760 and its companion bill Senate Bill 440, a measure that will provide the basic legal framework for professional employer organizations in Wisconsin.

NAPEO especially wants to thank Representative Scott Newcomer and his staff Eric Knight for their hard work on this important legislation.

A Professional Employer Organization or PEO is a business that partners with an existing small business to manage human resources, that can include employee benefits including healthcare, workers' compensation, Section 125 plans, retirement services and other critical benefits so their small business clients can focus on their core competencies to maintain and grow their business. The average PEO client is a small business with an average of 5 to 20 employees. By forming an employment relationship with these small businesses and their employees, PEOs are able to offer enhanced access to employee benefits that makes a small business of 10 feel like they are part of a company of 10,000. This allows small businesses to attract and retain a higher quality workforce.

Highlights of Assembly Bill 760 include:

1. Requiring annual registration of PEOs with the Department of Regulation and Licensing (DRL).
2. Requiring PEOs to maintain a minimum amount of working capital or provide a security or guarantee.
3. Requiring that PEO provide DRL with audited financial statements on an annual basis.
4. Give DRL the ability to effectively and efficiently administer the legislation.

The industry strongly believes it is important that minimum standards and operational requirements be established that provides a proper regulatory framework. This bill provides the statutory certainty needed for small start-ups to large PEOs alike, in creating a level, competitive playing field that diminishes the ability of fly-by-night operators to distort the market and harm small businesses and tarnish the industry.

Again, I urge your support of Assembly Bill 760. Thank you for your time and consideration.

Adam S. Peer, Assistant Director
National Association of Professional Employer Organizations

Phone: 703-739-8179 and Email: apeer@napeo.org

Kathleen A. Hillegas
Managing Director, Governmental Affairs
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608/204-5944 (FAX) 608/204-5945

February 11, 2008

The Honorable Representative Terry Moulton
Chair, Assembly Small Business Committee
20 North
Wisconsin State Capital
Madison, Wisconsin 53703

RE: AB 760/SB 440

Dear Chairman Moulton and Committee Members:

I write this letter on behalf of Administaff – one of the largest Professional Employer Organizations in the country – to express support for AB 760 and its companion bill, SB 440. My office is at 10 East Doty, Madison, WI 53703.

Professional Employer Organizations (PEOs) are a great service for the small businesses in Wisconsin. Small businesses are the engine of job growth in the State. They are known for bringing superb products and services to the marketplace – and while they are expert at making that product or providing that service – they often feel burdened by the business of being an employer. These small business people may not be experts in knowing how to establish legally compliant personnel policies, how to accurately pay wages in compliance with state and federal requirements, how to report and remit payroll taxes and how to find the best benefits for the workers at these businesses. That is why many small businesses turn to PEOs.

PEOs provide small businesses assistance with managing human resources, payroll and payroll taxes and provide a variety of benefit plans to these workers including health and retirement benefits. The PEO hires experts in these areas so the small business owner can concentrate on growing the business.

Administaff supports AB 760 and its companion bill, SB 440 – Registration of Professional Employer Organizations. This bill would provide a needed statutory framework for PEO operations by requiring PEOs to register in the State and meet certain financial standards.

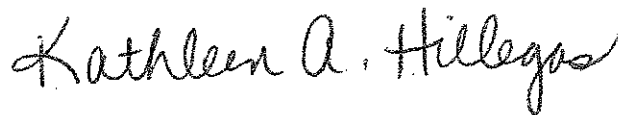
The Honorable Representative Terry Moulton

February 11, 2008

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Administaff currently provides services to over 100 businesses in Wisconsin. Over 500 workers benefit from these services. We have provide our services to over 100,000 workers nationwide. Administaff hopes to grow its presence in the State and AB 760/SB 440 would facilitate such growth.

Very truly yours,

A handwritten signature in cursive script that reads "Kathleen A. Hillegas". The signature is written in dark ink and is positioned above the printed name.

Kathleen A. Hillegas

/das